

kmp7299/L
Return Date & Time:
September 11, 2019 at 10:00 AM

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13 Case No: 19-22597 SHL

NOTICE OF MOTION

JOHN C. BUCHANAN,

Debtor(s).

-----X

PLEASE TAKE NOTICE, that upon the within application, the Chapter 13 Trustee will move this court before the Honorable Sean H. Lane, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, 300 Quarropas Street White Plains, NY 10601, on September 11, 2019 at 10:00 AM, or as soon thereafter as counsel can be heard, for an Order pursuant to 11 U.S.C. §1307(c) for cause, dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Responsive papers shall be filed with the Bankruptcy Court and served upon the Chapter 13 Trustee, Krista M. Preuss, Esq., no later than seven (7) days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: White Plains, New York
August 19, 2019

/s/ Krista M. Preuss

KRISTA M. PREUSS, CHAPTER 13 TRUSTEE
399 KNOLLWOOD ROAD, STE 102
WHITE PLAINS, NY 10603
(914)328-6333

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Return Date & Time:
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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13 Case No: 19-22597 SHL

APPLICATION

JOHN C. BUCHANAN,

Debtor(s).

-----X

TO THE HONORABLE SEAN H. LANE, U.S. BANKRUPTCY JUDGE:

KRISTA M. PREUSS, ESQ., Standing Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on March 11, 2019, and thereafter KRISTA M. PREUSS was duly appointed and qualified as Trustee.

2. The Debtor failed to comply with 11 U.S.C. §521(e)(2)(A)(i) in that the Debtor has not provided the Trustee with a copy of a Federal and State income tax returns or transcripts thereof for the most recent year, specifically 2018, although the Trustee has received a request for an extension of time to file.

3. The Debtor failed to provide the Trustee with documentation of the current value of all real property in which the Debtor has an ownership interest.

4. The Debtor failed provide to the Trustee and file with the Court copies of verified monthly business operating reports.

5. The Debtor has failed to amend the Plan to include secured Claim # 1 of New York State Department of Taxation & Finance in the sum of \$5,373.89.

6. The Debtor's proposed Chapter 13 plan is not feasible as it is not adequately funded to provide for full repayment to the secured claims as required by 11 U.S.C. §1325(a)(5).

7. The Debtor's failure as stated above impedes the Trustee's ability to administer this case and, therefore, is a default that is prejudicial to the rights of the creditors of the Debtor pursuant to 11 U.S.C. §1307(c)(1).

8. The foregoing constitutes cause to dismiss this Chapter 13 case within the meaning of 11 U.S.C. §1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Dated: White Plains, New York
August 19, 2019

/s/ Krista M. Preuss
Krista M. Preuss, Chapter 13 Trustee

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13 Case No: 19-22597 SHL

CERTIFICATE OF SERVICE BY MAIL

JOHN C. BUCHANAN,

Debtor(s).

-----X

This is to certify that I, Lois Rosemarie Esposito, have this day served a true, accurate and correct copy of the within Notice of Motion and Application by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

John C. Buchanan
One Crosby Road
North Salem, New York 10560

Clair & Gjertsen, Esqs.
4 New King Street # 140
White Plains, New York 10604

U. S. BANK National Association
Rushmore Loan Management Services, LLC
c/o Gross Polowy, LLC
1775 Wehrle Drive # 100
Williamsville, New York 14221

U. S. BANK National Association
Rushmore Loan Management Services, LLC
P.O. Box 55004
Irvine, California 92619

NYS Department of Taxation & Finance
Bankruptcy Section
P.O. Box 5300
Albany, New York 12205

This August 19, 2019

/s/Lois Rosemarie Esposito
Lois Rosemarie Esposito, Paralegal Case Support
Office of the Standing Chapter 13 Trustee
Krista M. Preuss, Esq.
399 Knollwood Road, Suite 102
White Plains, New York 10603
(914) 328-6333

CHAPTER 13 CASE NO:19-22597 SHL
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:

JOHN C. BUCHANAN,

Debtor(s).

NOTICE OF MOTION, APPLICATION
and
CERTIFICATE OF SERVICE

KRISTA M. PREUSS
STANDING CHAPTER 13 TRUSTEE
399 KNOLLWOOD ROAD, SUITE 102
WHITE PLAINS, NEW YORK 10603
(914) 328-6333
